IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE FIFTEENTH DAY OF JULY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE B.SESHASAYANA REDDY

-

WRIT PETITION NO : 1332 of 2005

Between:

1. Smt.Erla Adilakshamma, w/o Venkateswarlu,
   R/o Pottupalle, H/o Bukkapuram Village, Mahanandi Mandal, Kurnool District.

2. Smt.Panyam Anjali Devi, w/o P.Prasada Rao,
   R/o Thimmapuram Village, Mahanandi Mandal, Kurnool District.

..... PETITIONERS

AND

1. The District Collector, Kurnool District, Kurnool.

2. The Revenue Divisional Officer, Nandyal, Kurnool District.

3. The Mandal Revenue Officer, Mahanandi Mandal, Kurnool District.

4. A. Naga Seshaphani S/o. A.V. Narayana
   R/o. Bandiatmakur village, Mahanandi Mandal, Kurnool District.
   R4 is impleaded as per court order dt. 12-7-2005 in WPMP 18796 of 2005 **.....RESPONDENTS**

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court may be pleased to issue a writ or order or direction, preferably in the nature of writ of mandamus declaring the action of the 1st respondent in canceling the D Form pattas granted in favour of the petitioners without conducting an enquiry by giving a notice and opportunity, without authority of law and jurisdiction, and consequential orders passed by the 2nd and 3rd respondents vide proceedings in Rc.L.1943/2003, dt.22-12-2004, in Rc.A.258/ 2004, dt.31-12-2004 respectively, as illegal, in gross violation of principles of natural justice, contrary to the mandatory provision under Sec.5(1) of the A.P.RIGHT IN LAND AND PATTADAR PASS BOOK ACT 1971 and contrary to the Article 14, 19, 21 and 300A of Constitution of India and consequently set aside

the above stated impugned proceedings of the respondents.

Counsel for the Petitioners: MR.K.RATHANGA PANI REDDY

Counsel for the Respondent No.1 to 3: GP FOR REVENUE

Counsel for the Respondent No.4: A.NAGENDER RAO.

The Court made the following :

O R D E R :

1. This writ petition is filed by the petitioners who are two in number assailing the memo in Rc.A.258/2004, dated 31-12-2004 whereunder the Revenue Divisional Officer, Nandyal has been directed to take action for the restoration of the assigned lands.

2. The 1st petitioner is resident of Puttupalle, Bukkapuram village, Mahanandi Mandal, Kurnool District and the 2nd petitioner is resident of Thimmapuram village, Mahanandi Mandal, Kurnool. They have been assigned Ac.2-50 cents each under D-Form patta by the Mandal Revenue Officer, Mahanandi Mandal, Kurnool District-3rd respondent. On noticing certain irregularities in sanction of assignment to the writ petitioners, the District Collector, Kurnool-1st respondent issued memo in Rc.E2.3162/2004, dated 18.11.2004 directing the Revenue Divisional Officer to take action for restoration of the assigned lands. Hence, this writ petition.

3. 4th respondent-A.Nagaseshaphani has come on record as party-respondent in the writ petition as per orders in WPMP.No.18796/2005. It is the case of 4th respondent

that the Government assigned Ac.5.08 cents of Bukkapuram Village, Mahanandi Mandal, Kurnool in Sy.No.816 to him and he has been in possession and enjoyment of the same. It is his further case that he filed O.S.No.741 of 2003 on the file of Principal Junior Civil Judge, Nandyal and obtained interim injunction on 22.10.2003. I deem it appropriate to refer to para 6 of the counter affidavit and it is thus:

> " That, it is respectfully submitted that to prevent the said trespass of the Writ Petitioner and their family members and henchmen into the schedule property legally, as his rights are adversely affected and cause irreparable loss to him, being a law abiding citizen, approached the Hon'ble Principal Junior Civil Judge, Nandyal by filing O.S.No.741 of 2003 seeking directions restraining them and anybody on their behalf from trespassing into the said suit land and dispossession of the plaintiffs. The Hon'ble Court was pleased to grant the interim injunction on 22.10.2003 due to that the said schedule land is in his exclusive possession. The Writ Petitioners are intentionally and deliberately suppressed the above facts and circumstances. On this ground of suppression of facts only, the Writ petition is to be dismissed."

4. Heard learned counsel appearing for the petitioners, learned Government Pleader for Revenue appearing for respondents 1 to 3 and learned counsel appearing for 4th respondent.

5. Learned counsel appearing for the petitioners submits that the Mandal Revenue Officer assigned Ac.2.50 cents each to the petitioners in the year 1999 and since then the petitioners are in possession and enjoyment of the same. He further submits that the 1st respondent-District Collector without causing any notice to the petitioners passed the impugned memo directing the Revenue Divisional Officer to take action for restoration of the assigned lands.

6. Per contra, learned counsel for 4th respondent submits that 4th respondent is an ex-servicemen and an extent of Ac.5.08 cents in S.No.816 has been assigned to 4th

respondent. It is his further contention that 4th respondent is in possession of the property as on this day and he has also secured interim injunction from the civil court.

7. Before dwelling on the rival contentions, I make myself clear that the dispute with regard to the possession of the land in question, the said question between the petitioner and 4th respondent stands outside the scope of the writ petition. The only issue that survives is whether the memo issued by the 1st respondent-District Collector is legal and proper. Admittedly, the writ petitioners are assigned Ac.2.50 cents each in the year 1999. The revenue authorities sought to cancel the assignment on the ground that assignments in favour of the writ petitioners is not in accordance with the provisions of law. Whatsoever may be, when land has been assigned in favour of the petitioners, principles of natural justice require notice to be given to them before ordering resumption by canceling the assignment. In this case, the order of 1st respondent-District Collector does not indicate of any such exercise has been done before passing the impugned order. On this ground alone the writ petition deserves to be allowed.

8. Accordingly, this writ petition is allowed setting aside the impugned memo in Rc.A.258/2004, dated 31-12-2004. However, it is left open to the revenue authorities to conduct proceedings for cancellation of the assignment in accordance with law. No costs.

Dated: 15-07-2005. (B.Seshasayana Reddy,J)

tnb

Witness the Hon'ble Mr.Justice Bilal Nazki, the Acting Chief Justice on this day Fifteenth Day of July Two Thousand Five.

REGISTRAR

To

1. The District Collector, Kurnool District, Kurnool.
2. The Revenue Divisional Officer, Nandyal, Kurnool District.
3. The Mandal Revenue Officer, Mahanandi Mandal, Kurnool District.
4. Two copies to Government Pleader for Revenue, High Court buildings, Hyderbad. (OUT)
5. 2 CD copies